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**Board Meeting – August 26, 2013**

**21<sup>st</sup> Floor – Conference Room 1**

**Present Board Members:**

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Diane McLeod, Vice Chair (DM)
- Myra Berloff, Massachusetts Office on Disability (MB)
- Carol Steinberg, Member (CS)
- Mark Trivett, Member (MT)

and

- Thomas Hopkins, Executive Director
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

**Members Not Present:**

- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Andrew Bedar, Member (AB)
- Gerald LeBlanc, Member (GL)

- Meeting began at 9:00 a.m.

**1) Discussion:** Tasty Burger, 69-71 L Street, South Boston

TH - EXHIBIT – request for support letter sent to the plumbing board

- seeking a variance from the plumbing board
- don't want to provide toilet rooms
- formerly sidewalk takeout, now putting outside seating and interior seating

- seeking a letter of support regarding them not having accessible toilet rooms, since they don't want to provide a bathroom

-triggered requirement for bathrooms under the plumbing code, since they have 20 seats

*CS - not opposed as long as it is an employee only bathroom*

*DM - second – carries with DM and CS in favor, MT and MB opposed, WW in favor of the motion*

2) Incoming Discussion: 7, 11, 15 Lancaster St., Worcester (V13-206)

TH - EXHIBIT – letter seeking temporary CO

- ramp is done and handrails will be done by the end of this week

- no students that currently need the ramp in the building

*MT - allow temporary CO for the building, on the condition that the ramp is compliant and verified as such by September 1, 2013*

*MB - second – carries*

3) Incoming: Press Box, Watkins Field, 200 Catherine St., Gardner (V13-236)

TH - EXHIBIT – variance application

- architect, Paul Lieneck and Inspector Cook,

- seeking variance to not make the press box accessible

*MB - deny*

*CS - second – carries*

4) Discussion: Newton North HS, 457 Walnut St., Newton (V08-052)

TH - parking that was ordered was still not completed

- new disability commission has taken up this matter

***Andrew Bedar, Member (AB) – Now Present***

- fine was already in place at last hearing

- fines have started and are accruing

*MB - fines have started and are at a certain amount right now, as noted in the previous decision*

*DM - second - carries*

5) Discussion: School of Philosophy, 399 Lexington Rd., Concord (V12-177)

TH - EXHIBIT – petitioner seeking use of the basement space

- all appears period have expired, no use of the building until access provided

- partial access provided to the basement space

- previously agreed to plan for access

- at that time there was no plan for use of the basement
- now seeking to use the basement

CS - when is it going to be done?  
 TH - she doesn't say

*MB - maintain previous decision*  
*DM - second – carries with CS abstaining*

*DM - expedite*  
*MB - second – carries*

6) Discussion: Shaker Village, Trustees Office, 1843 West Housatonic St., Pittsfield (V11-161)

TH - EXHIBIT –  
 - held a hearing and the architect appeared, they had triggered high level of access  
 - still need more money, have only raised \$16,000.00, and need \$100,000.00 for access  
 - dismissed the architect of record  
 - maybe have a new hearing to meet the new architects

*CS - hearing*  
*MB - second - carries*

7) Incoming: Stockbridge Rd & Old Driftway, Scituate (C10-077)

TH - EXHIBIT – August 12, 2013 letter, seeking time to submit a plan for compliance  
 - hired Kessler & McGuinness to provide further analysis  
 - plan for compliance to be submitted 9/18/13  
*MT - accept and submit plan for compliance by 9/18/13*  
*DM - second – carries with MB abstaining*

8) Incoming Discussion: Hartwell Homes, 1 Citizen Place, Cambridge (V13-210)

TH - EXHIBIT – variance application

CS - under agreement they say that they can't do modifications  
 - but did not see that language in the agreement  
 - in fact saw the opposite; saw that the cooperation can do repairs, replacement in the units  
 - nothing cited  
 - would like a hearing

TH - concern with wondering into discussion about jurisdiction  
 - initially they came on strong that there is no jurisdiction  
 - aren't they offering compliance over time

CS - no, they are not saying that  
- they've already conceded jurisdiction

WW - what are they asking for?

MB - full relief sought

AB - yes

MB - would make sense to find a common ground

DM - committing to the following (read into the record)

MB - as a unit becomes empty, it is required to be modified

TH - only 2 Group 2 units

*MB - reaffirm jurisdiction and when the share of that unit is up for sale, modifications of that unit will be completed to create 2 Group2A units*

*MT - second – carries with CS opposed*

9) Incoming: Pinot Palette, 7A Miriam St., Lexington (V13-222)

TH - EXHIBIT – variance application  
- conversion of yarn supply store to paint store  
- 30% analysis, not spent over 30%

*MB - jurisdiction not triggered since not spending over 30%*

*DM - second - carries*

**Raymond Glazier, Executive Office on Elder Affairs Designee (RG) – now present**

10) Incoming: Athletic Complex and Press Box, 17 Union St., Hingham (V13-239)

TH - EXHIBIT – variance application  
- proposing vertical wheelchair lift to the press box  
- new construction

*MB - grant, on the condition that the compliant lift is in place and installed and inspected prior to being used*

*CS - second – carries*

11) Incoming: New Life Community Church, 221 Baker Ave., Concord (V13-226)

- TH - EXHIBIT – variance application
- reconstruction and remodeling, spending over 30%
  - seeking variances for 16.1, 20.1 and 28.1
  - proposal is to drive the person around the building to an accessible entrance

*MB - deny*

*CS - second – carries*

12) Incoming: Baptist Church, 207 Egremont Plain Rd., North Egremont (V13-223)

- TH - EXHIBIT – variance application
- back in 2012, building inspector stopped the project for the removal of the stairs and reconstruction of new stairs
  - had allowed reconstruction of stairs, but required variance application within 60 days
  - seeking a variance for no access
  - always 10 or less parishioners
  - on June 20<sup>th</sup>, only 3 in attendance
  - unsure of how much longer the church will be open
  - give them some time, they may expand the parish or the church may close

*CS - grant a time variance to allow them to come back to the Board by September 1, 2013 and give a status of the parish, and any plans for compliance, or if the church closes*

*AB - second –*

*MB - elderly people that need this access the most*  
*- carries*

13) Discussion: Bancroft Commons, 50 Franklin St., Worcester (C11-040)

- TH - EXHIBIT –
- stayed the fines to see the results of the elevator board
  - got an email from Walter Zalenski, that they “forgot to deal with it” at the elevator board meeting on the meeting on the 20<sup>th</sup>, they will deal with it on the 27<sup>th</sup>

*CS - postpone until next meeting, 9.9.13*

*RG - second - carries*

14) Incoming Discussion: First Dental, 366 Salem St., Medford (V13-162)

- TH - EXHIBIT – new plans
- ordered lift to be in place by 8/15/13
  - now seeking extension to enclose the lift and the porch being rebuilt
  - seeking 60 day extension to the temporary CO

*CS* - grant the 60 day extension  
*MB* - second – carries with DM abstaining

15) Incoming: Market Basket, Templeton Rd., Athol (V13-224)

TH - EXHIBIT – variance application  
- new construction  
- proposing LULA to access mezzanine

*DM* - grant as proposed  
*MB* - second – carries

**- BRIEF BREAK -**

16) Discussion: Boston Church of Christ, 79 Pleasant St., Arlington (V13-139)

TH - previously continued the discussion regarding the lack of access to the altar  
- provided a lift drawing and ramp drawing (EXHIBIT)  
- will make the sink controls comply  
- straight on and off lift, and ramp to the stage

*CS* - accept submitted plans, to be completed by the completion of the project  
*RG* - second – carries

17) Incoming: Amherst College, Garamond Hall, 62 Boltwood Ave., Amherst (V13-221)

TH - EXHIBIT – variance application  
- original brought to the Board in June as discussion about assessed value  
- determined over 30%  
- allowed building inspector to issue permit for work for the heating system by a certain date, on the condition that the variance application submitted  
- language in application states that they are not over 30%

*MB* - hearing  
*MT* - second – carries

*MB* - note in the notice of hearing that jurisdiction has already been established

18) Incoming: Curb Cut at Columbia, Stoughton and Dudley Boston (V13-235)

TH - EXHIBIT – variance application  
- seeking variance to use apex curb cuts

- believe that they can use apex curb cuts by right, based on their narrative
- sightline would be moved back behind a sightline

MB - design is ok, but surface appears to be a problem

*MB - design complies with the code, 21.2.1.1b, no variance required*

*DM - second – carries*

*MB - surface appears to be uneven, with changes in level greater than ¼ inch, therefore, the Board would like confirmation from them that the surface complies*

*DM - second – carries*

19) Incoming Discussion: Sidewalks at Columbus Ave. & Stewart St., Boston (V12-313)

- TH
- now seeking advisory opinion regarding both sides of the driveway at the intersection of the driveway
  - they are asking if the tactile warnings are required at the transitions, since the transitions are almost level
  - previously accepted the plan with the installation of truncated domes as part of the plan
  - seeking to not install them since they are not really curb cuts

*CS - allow elimination of truncated domes*

*DM - second – carries*

20) Incoming Discussion: Pentucket Reg. HS, 24 Main St., West Newbury (V12-239)

- TH
- original decision in October of 2012
  - previously granted variance for the installation of a lift for 8/15/13
  - press box has been used
  - seeking more time to comply

*CS - hearing*

*AB - second - carries*

21) Incoming: Patriot Square, 179 Great Rd., Acton (V13-227)

- TH
- EXHIBIT – variance application
  - seeking variance for two locations along sidewalk with two locations that are not compliant
  - email from disability commission (read into the record) – EXHIBIT 2
  - both entrance ramps
  - in support of variance application on the condition that parking provided near accessible, and directional signage

*CS - grant the variance requested with the conditions from the disability commission*

*DM - second – carries*

22) Incoming: Harvard Lampoon, 44 Bows St., Cambridge (V13-204)

TH - EXHIBIT – variance application  
- was going to present on 8/12, but was awaiting spending breakdown  
- they are not over 30%  
- work being done is an exemption  
- no other work in the last 3 years

*MB - work fall under exempted, no variance required*

*DM - second – carries*

23) Discussion: Whitfield-Manjiro Friendship House, 11 Cherry St., Fairhaven (V09-025)

TH - EXHIBIT – pictures of completed work and video of the first floor  
- required submittals

*CS - accept the ramp*

*DM - second – carries*

TH - closed captioned video

24) Discussion: Becket Athenaeum, 3367 Main St., Becket (V13-073)

TH - EXHIBIT – new written policy (read into record)

*MB - accept policy*

*DM - second – carries with CS opposed*

25) Discussion: Williams College, Bernhard Center, 54 Chapin Hall Dr., Williamstown (V13-203)

TH - EXHIBIT – new submittal  
- granted relief to allow the route to go out and around to access the stage, and required that policy submitted that any function held at the stage with a person at disability all have to use corridor

*MB - reopen*

*DM - second – carries*

*MB - rescind the requirement for everyone to use the alternate route to the stage*

*DM - second - carries*

26) Incoming: Sidewalks, Curb Cuts and Reconstruction of Commercial St., Provincetown (V13-228, 229, 230, 231, 232, 233, and 234)



TH - EXHIBITS – variance applications  
- complete reconstruction of the street  
- all applications state in question #12, that the project has been accepted as substantially complete  
- the work is basically complete  
- need a hearing on this

*DM - hearing*

*DM - second – carries with MB abstaining*

27) Discussion: Slattery Funeral Home, 40 Pleasant St., Marlborough (C10-078 & V13-122)

TH - three emails from attorney about toilet rooms with picture (EXHIBIT)  
- this is the last of the required work

*DM - accept the proof of compliance and close the case*

*AB - second – carries*

28) Incoming Discussion: 15 Story Office Building, 699 Boylston St., Boston (V13-108)

TH - about reciprocal curb cuts at the other side of the project  
- Petitioner seeks amendment for 21.2.2, regarding reciprocal curb cut, running slope is 11.59% at curb cut across from project and cross slope is 4.23%

*MB - continue decision to get more information regarding if that side of the street will be modified at a later date*

*MT - second – carries*

*MB - information submitted within 30 days*

*MT - second – carries*

29) Discussion: Visit to the Tannery at 699 Boylston Street area

TH - entrance to the Tannery, while accessible, is only served by stairs once inside the front door to access all of the merchandise  
- was told that it was done about 5 years ago

*MB - staff initiated complaint regarding the lack of access at the interior*

*DM - second – carries*

30) Discussion: Sinclair, 50 Church St., Cambridge (V12-055)

TH - held a hearing, at the hearing, the petitioners were ordered to convert a freight elevator to a passenger elevator  
- in October, asked for amendment to freight elevator conversion

- amendments for dimensions were allowed and voted on
- July 26, 2013, Josh Batty indicated that there were problems with the contractor taking funds and not paying the elevator company
- work is not done
- elevator company doesn't want to come back until they are fully paid
- fine hearing may be appropriate

CS - daughter went there for a concert  
 - she said the elevator wasn't open, but access through another elevator

TH - yes, that was part of the alternate means of access to the second floor outside of the tenant space

*DM - fine hearing*

*RG - second – carries*

31) Advisory Opinion: Restaurant Seating, 36" routes (521 CMR 17)

TH - Kirk T., seeking question about all the routes within  
 - seeking to know if it was required to be 36" to all tables or just to the accessible seating  
 - consultant for Legal Sea Foods

MB - may be in response to me  
 - Legal Seafood has tables with very large skirts  
 - vast majority are not accessible  
 - some tables without large skirts  
 - if large party, attach table with large skirt, with table without large skirt  
 - no accessible route to the area

DM - 17.2.1, states that the accessible tables shall be distributed throughout the building  
 - no seating shall overlap the access aisle provided between all accessible tables

MB - only need accessible route to the accessible table

CS - what about getting to the restroom  
 - reading 17 in conjunction with Section 6, may need a variance

MB - must maintain clear 36" path of travel to the accessible tables

DM - 20.1, accessible route shall provide continuous unobstructed path

*CS - accessible route required to tables*

WW - question that was asked, do all tables require 36" route around them

*CS - all tables do not require accessible route around them, the accessible route shall be maintained clear to accessible tables and to toilet rooms, and any other accessible elements,*

*RG - second - carries*

32) Advisory Opinion: Assembly Row, Somerville

TH - Christopher Lynch, RGA

- vehicular route, street is closed for business route, similar to downtown crossing

- how does plaza apply, due to the double use of the space as a vehicular route and path of travel for pedestrians when closed off

- accessible route to the change in use required

MB - what is provided right now for slope?

TH - not relevant

MT - street festivals are in the definition of temporary

DM - building in brand new

TH - if this is new construction, then should be built with the intent of dual use and should comply

*CS - continue for more information*

*MT - second – carries*

33) Advisory Opinion: Section 39.4, outlets 18” from the corner

TH - outlet not 18” to the corner

- outlet next to the sink

- within the reach ranges, but not 18” from interior corner

*DM - does not comply, variance required to maintain*

*MB - second – carries*

34) Discussion: Meeting Minutes and Decisions

CS - Hatfield Town Hall

- policy about any public events held on accessible level

- add submittal of policy to September dates

*CS - policy submitted to the Board by a date determined by KS for Hatfield Town Hall*

*DM - second – carries*

*CS - accept decision and minutes*

*DM - second – carries*

**- MARK TRIVETT NO LONGER PRESENT -**

35) Incoming Discussion: Town Hall, 136 Elm St., Easton (V13-188)

TH - follow-up from requirement from previous decision  
- seeking to lock the accessible toilet room at the first floor next to the elevator  
- two-floor plan submitted  
- another toilet room at the second floor

MB - cannot do that

*MB - cannot lock the accessible toilet room at the first floor, unless all toilet rooms are locked*

*DM - second –*

*MB - they don't want to have public use of the first floor toilet, then lock them all*

*DM - need to lock them all or don't lock any of them*

*MB - not uncommon to see bathrooms at the first floor be locked*

*- so all of the bathrooms should be locked, or none of the bathrooms shall be locked*

*- carries*

**- LUNCH BREAK -**

**- MARK TRIVETT NOW PRESENT -**

36) Hearing: Wightman Tennis Center, 100 Brown St., Weston (V13-184)

WW - called to order at 1 p.m.  
- introduce the Board

Peter Vanko, Allegro (PV)

WW - PV sworn in  
- EXHIBIT 1 – AAB1-12

TH - project in 2002 access project  
- work performed jurisdiction, locker room and toilet room variances

PV - tennis facility comprised of approximately 40,000 sq. ft of indoor space, indoor tennis courts  
- AAB10, small yellow area at the ground level

- since 2002, the improvements to the building included a vertical wheelchair lift, an exterior ramp, making the building fully accessible
  - large pool on one side of the locker room, tennis court at the other side
  - additions on the outside of the building
  - AAB11 is existing conditions of the locker room, as shown on AAB10
  - when improvements made on the level above with locker room and gym, included the addition of the accessible bathroom and changing area
  - this was added on to accommodate someone that was unable to use the existing locker rooms at the lower level
  - the locker rooms are in state of wear that is concerning
  - carpet currently in the locker room
  - tennis center would like to put new finishes on the inside of the existing locker room
  - would be spending over \$100,000.00
  - would need to restructure the locker room to comply, which may result in the loss of plumbing fixtures
  - area above via wheelchair lift, close to the locker room, to access upper level locker rooms, and also adjacent accessible changing room
  - AAB9 is upper level
- WW - cost estimates?
- PV - \$100,000.00 to renovate to comply
- cost implications to expand at the lower level would be around \$500,000.00.
- PV - AAB10
- enter at upper level, ground level is slightly sunken
  - accessible route is from entrance, down the lift/stairs, to the pool/tennis court level
- DM - access at both levels?
- PV - yes, the only area of the building that is not accessible is the lower level locker room
- the other level is what?
- PV - one accessible changing room at lower level, upper level is fully accessible
- DM - are there accessible lockers?
- PV - yes, in the accessible changing rooms
- all along the pool area there are also lockers as well
  - there is only one accessible shower at the lower level
- CS - upper level is accessible?
- PV - level above the area in question has accessible showers
- PV - floor also has slope in it
- AAB2 also points out other areas that would require relief
  - some floor slopes are 1 inch over 4 feet
  - these are some areas that need to be mitigated but cannot comply in full due to the limited footprint
  - will have to decrease locker counts or existing fixture counts

- the existing route is 30 inches between bearing walls for the route in
- even with putting an auto-opener on some of the doors

CS - choice is to go to the upper level accessible showers at the upper level locker rooms  
 - would like to know the layout of the upper level

WW - lockers are individually locked?  
 PV - yes

PV - AAB11, wide bearing wall on the left hand side with lockers along that wall, outside the locker room  
 - total of 600 numbered lockers at the facility, about 60 lockers along this corridor

MB - AAB12?  
 PV - flexible space within the locker room which is open square footage, with seating

MB - locker rooms within the locker room are assigned to members?  
 - are the ones in the hallway also assigned?  
 PV - yes

MB - is there a way to access the locker room other than going thru the 30 inch corridor  
 PV - yes, but both access points are the same and very tight, but 5 foot wide corridor around the locker room

MT - ramp location?  
 PV - AAB12, shows steps at the women's side  
 - in general the locker room is 4 inches higher than the rest of that level

PV - intent is that in the new work, will jackhammer the most abrupt transitions and pouring a new flat slab

TH - do they rent the pool out?  
 PV - not sure

MB - yes, can pool be rented out and tennis courts be rented out?  
 PV - yes, have seen it rented out in the past

CS - would like dimensions to be shown on the plan, such as clear width and slopes

*MB - continue to have the Petitioners provide more precise dimensions of the lower level areas that want to remain as is, and layout of upper level locker room*

*DM - second – need to be able to see everything identified and photographs of the current area*

*MB - what about putting a door in and therefore avoiding the need to widen a corridor*

*PV - one issue is the substantial benefit*  
*CS - benefit is to not be isolated, socialization*

CS - *would also like the cost details for all of the proposed options*  
- *show what is already provided*

WW - *also need to submit information about renting the space*

CS - *existing area,*  
PV - *steam room and saunas that are existing*

CS - *submit revise plans by October 1, 2013 with potential amended variance requests*  
- *carries*

37) Incoming Discussion: Town Hall, 136 Elm St., Easton (V13-188) – Cont'd

MB - *motion to reopen*

DM - *second – carries*

MT - *recuses and leaves the room*

MB - *although all locked in previous motion, it would be easier to just maintain the access as it always has been, and maintain all of the doors as unlocked*

MB - *rescind previous motion*  
DM - *second – carries*

MB - *deny the variance request to lock the bathroom door, since there is a substantial benefit to keeping it unlocked, it would be a reduction of access, and no cost involved*  
DM - *second – carries*

38) Hearing: Crockett House, 78 Oxford St., Cambridge (V13-148)

WW - *called to order at 2 p.m.*  
- *introduce the Board*

Kevin Murphy, Director of Facilities and Operations at Lesley University (KM)  
James Rafferty, Attorney for Lesley University (JR)  
Oliver Radford, Perry & Radford Architects (OR)

WW - *all but JR sworn*  
- *EXHIBIT 1 – AAB1-14*

JR - *there has been a misunderstanding about the application, which may stem from the Petitioners*

- unsure as to why the City of Cambridge required a variance for the installation of hardware at the door in question

- public entrance to the building is within the courtyard, principal access will be in the area marked entrance

- the door that is marked exit that faces Oxford Street will be locked and only accessed by public safety officers

- position of OR that hardware alone would not require a variance

- initial assumption was relief sought for accessibility requirements

- seeking variance for hardware at a locked exit only door, which is only accessed by public safety official, although don't feel a variance is necessary, were required by the City of Cambridge to seek a variance for the installation of hardware at this door

WW - letter from City of Cambridge Bureau of Fire Prevention, Thomas Cahill – EXHIBIT 2

- (letter read into the record)

TH - Notice of Action on AAB5

- Item #3, denial

- originally reviewed on June 17, 2013, denial also noted that more variances may be required

- nothing submitted regarding additional variances

- question comes regarding two accessible means of egress being required

- unsure of common areas on the second floor

- dormitory so required to comply in full with the applicable requirements, such as common area bathrooms

- primary reason

JR - directed to seek relief, not for lack of vertical access

- directed specifically on hardware on the doors

DM - first floor is accessible

OR - yes

- pass out floor plans of upper floors

WW - EXHIBIT 3

DM - looking at the first floor

OR - no disagreement about going over 30%

- deliberately reoriented the buildings to create access to all three buildings

-the ramp is only entrance to the building

- elevator exemption, 8.5.2, which states that an elevator is not required in a building of less than 3 stories or less than 3,000 sq ft.

TH - read entire part of 8.5.2

WW - (reads section 8.5.2 into the record)

OR - my opinion is that all spaces are accessible, since there are more than required number of rooms, two accessible single and one double room at the first floor, all common spaces are accessible



- WW - distribution throughout the floors  
 OR - elevator exemptions for areas less than 3 floors, then how can that require vertical access?
- TH - consistently required access to common areas at other floors  
 - this was explained to the petitioners previously  
 - common area bathrooms at the first and second floor
- RG - more than 3 floors  
 OR - not less than 3 stories but less than 3,000 square feet per floor
- OR - common use bathrooms for each floor
- CS - is someone is visiting their child then they are not allowed to use the bathroom
- JR - not public bathrooms  
 - residents of each floor use those particular bathrooms  
 - exemption allows the second floor to be inaccessible, would suggest that it allows for distribution on a single floor
- (Tape)
- JR - they were issued a building permit to do this renovation, after review by the local building authority  
 - sent to the board for specific relief for one section of the code, then find that more required  
 - reliance of the architect on the review of the local building department
- DM - under transient lodging facilities (8.5.2), requires that common use spaces (as defined in 521 CMR 5) are required to comply with the requirements of 521 CMR
- CS - coed housing?  
 KM - yes  
 OR - all are single user bathrooms, locked behind them
- AB - parent visiting son at school, need to be able to use the bathroom as well  
 OR - no one is policing who is in the bathrooms
- OR - public spaces have to be accessible, not common use spaces
- MT - building official, and the first thing that I noticed when looking at the schematic was that there was a new accessible entrance  
 - dorm requires two independent means of egress  
 - another point of access at the Oxford Street entrance, understand the fire departments request  
 - 25.1, public point of entry, fire fighters are not employees  
 - area of rescue assistance outside the door?

OR - yes, provided, even though not technically required under the exemptions of 20.11

MT - did he explain why he required seeking a variance?

JR - no, not the fire department, local building department that if hardware provided needed a variance from the Board

OR - did go to the fire department and ask to omit the hardware, but they were required to put the door hardware on

TH - accessible egress at the exterior side of the building, exemptions are for the interior, not for the exterior  
- two means of accessible egress, is the porch flush with the entrance, and are the accessible egress signage provided

- regarding door hardware, have always maintained that considered “emergency exit only” only when it is alarmed and no door hardware at the exterior

- first time heard that fire department requires door hardware

MB - is there a level means of egress out to the porch

OR - yes

- there is an accessible threshold, and to each side of the swinging door there is a 30”x48” area of rescue assistance

MB - common elements on an upper floor, this board has always interpreted the shared bathrooms at an upper level to be a common area that is required to comply

- been a longstanding position of the Board to require upper level common areas comply when full compliance triggered

CS - *grant the variance for the lack of access to the entrance in question, on the condition that “emergency egress only” signage be posted*

DM - *second – carries*

CS - *have the Petitioners submit amended variance request regarding the upper level areas that are required to comply,*

OR - *what areas are required to comply and amended variances are required*

WW - *talk to Mr. Hopkins*

- *submit by September 6, 2013*

DM - *second – carries*

**- NO MORE DM AND AB –**

39) Hearing: Isaac Harris Cary Memorial Building, 1605 Massachusetts Avenue, Lexington (V13-238)

WW - called to order at 3 p.m.

- introduce the Board

Nancy Shepard, Chair Ad Hoc Cary Memorial Building Committee (NS)  
Bruce Dempsey, Town of Lexington, Acting Building Commissioner (BD)  
Don Mills, Mills Whitaker Architects, (DM)

WW - all sworn in

- EXHIBIT 1, AAB1-58

- spending over 30%

DM - 3 story building, built in 1927

- meeting building, not the Town Hall offices, which are next door

- ramp built in the 1980s to access the building

- sloping floor area at the back of Battin Hall with fixed seating

- existing stage with a temporary thrust stage that is in place more than it is not

- accessible bathroom built at the same time as the ramp, 1985

- elevator installed in 2000 and accessible doors created

- tiered u-shaped balcony at second floor

- Bird Room is 6 feet higher than second floor balcony level

- other meeting rooms at balcony level that are accessed by the elevator

- at lower level, men's and women's bathroom

- back facilities area, which was originally a dressing room, but is now used as storage

- small lecture room, with small recital stage

- Estabrook Hall is 4 feet lower than lower lobby, but is accessed by ramp

- another small meeting room at the lower level

DM - proposed methods of compliance

- new ramp to the front entrance, with access next to the existing stairs

- serving area will be made accessible since accessed by volunteers

- temporary thrust stage will be removed and stage will be enlarged permanently

- creating access to the stage, by rebuilding corner stair and installing wheelchair lift

- lift will access the stage, lower level green room and access the lower level recital stage

- since 1927, no connection of any kind from the green room to the recital stage

- second floor proposing a lift to go up the 6 feet to the Bird Room

- also proposing accessible seating locations at the balcony

- seeking no access in the Civil Room, since they do not plan on using it for any public meetings, but may be used

- renovating lower level toilet rooms to create accessible toilet rooms

- Estabrook Hall will also include ramp access to the stage level

- renovated Green Room also includes accessible toilet room

DM - project is 3-fold, improve life safety, improve access, new HVAC system

- 8 million dollar project, well over 30%

- full compliance cost is \$1.5 million

- requests are for redundant full compliance

DM - 14, places of assembly, 3 items  
- 14.2, 14.3 and 14.6  
- 14.2, 107 fixed seats, 432 at the second level  
- loose seats are not counted  
- proposing four accessible seating locations at the balcony level and then the rest at the loose seating areas

- 14.3, slight dimensional variances for the accessible seating proposed  
- 38" x 58" since not detrimental to egress, at the two side aisles  
- up against the wall is 36" x 59"

CS - *grant the variance for 14.2 and 14.3 as proposed*

MB - *second – 4 ½" deficit won't impact accessibility or usability of the space based on their location*  
- *carries*

DM - 14.6, access to the two performance areas  
- stage area in Battin Hall, looked at all different options for accessing the new stage  
- tearing out adjacent stairs, in order to create stairs to the stage and the wheelchair lift, which accesses the lower level Estabrook Stage as well and the green room  
- Estabrook stage is only about 18 inches above the floor  
- ramp and wheelchair lift also will require some minor variances

MB - *grant the variance for 14.6*

CS - *second – carries*

DM - total of 5 ramps when the project is done  
- entrance ramp will comply in full  
- two interior existing ramps will have compliant handrails  
- ramp down to Estabrook Hall and then ramp up to the stage and to the green room  
- Estabrook Hall ramp has 41 ¾" clear, with compliant slopes

CS - *grant ramp to Estabrook Hall for clear width*

RG - *second – carries*

DM - recital stage ramp will have ramp that starts one foot beyond the door, door will have auto-opener  
- intermediate landing is 53" x 115"  
- ramp leg to the lift at the back of the recital stage will have 44" clear

MB - *grant all variances requested for the Estabrook recital stage (24.3, 24.4.3 and 24.4.5)*

MT - *second – carries*

DM - bottom of the ramp into Battin Hall  
- landing at the top and extensions at the top of the existing first floor corridors

*MB - grant variance for 24.4 for the existing first floor corridors*

*MT - second – carries*

DM - all variances are based on excessive cost without substantial benefit to persons with disabilities

DM - only one public entrance to the building, the front monumental entrance

- landing level was raised in 1985 when the ramp was built

- only the doors closet to the ramp have auto-openers, seeking no auto-openers on the other two doors

*MB - grant as proposed*

*RG - second – carries*

DM - 26.1.2, 8 door locations

- are making 4 of the 8 accessible egresses

- the other four, they are asking for variances

- pair of doors at the ground floor area that connect to the stairways at the back of the building

- double-door exit to fire escape at first floor

- and east exit at stair landing, down four steps and step at the stoop

- proper emergency egress signage will be provided

*MB - grant the variance for the lack of access at the four noted emergency egress doors, on the condition that the accessible emergency egress doors have proper signage*

*MT - second – carries*

DM - 31 pairs of double doors, requesting variance for 16, 15 will be corrected

- double-doors to Estabrook Hall will have one set of double-leaf doors with auto-opener, and one without

- 5 sets of double-leaf doors at Battin Hall entrance to remain, will be left open, or will be opened with assistance

- second floor, pairs of doors into balcony level

- some auto-openers provided

CS - concern with main hall not having doors with door openers

- understand that they will be open or be opened by an usher

DM - when people come late, they are asked to enter the side entrance, which are both accessible doors

- not allowed to open the entrance lobby doors during a performance

CS - seating at balcony

DM - usher standing at the door opening the two 24" leaves

- what is the downside of an auto-opener?

DM - the loss of historic hardware

- can add operators to lower level Battin Hall double doors, and first set of double-doors to upper level balcony seating

*CS - grant the variance requested as proposed, on the condition that auto-openers installed at the northeast pair of doors at the main stage and the bird gallery pair at the upper balcony*

*MT - second – carries*

DM - 26.6, maneuvering clearance

- 7 doors that require variances

- first floor, two doors from stage area to the side stairs, one is a new door, and one is existing with a step up

- ground floor, two doors at Estabrook, one opposite the ramp and one to the stair, alternate accessible route provided

- door to side stair from green room, more back of the house, accessible path is at the opposite end

- exit to side stair,

*CS - grant all as proposed, based on exc. cost without substantial benefit and tech. infeasible*

*RG - second – carries*

DM - retain door hardware on historic doors that were granted variances

*MB - grant as proposed for door hardware*

*MT - second – carries*

DM - AAB40, nosings (27.2)

- two types of stairs in the building; slate treads  $\frac{3}{4}$ " overhang (would have to cut the edge to comply); concrete stairs at the balcony, tiered seating and stairways, slightly rounded edge (would have to add something to make the nosing comply)

- cost is excessive to change these, especially regarding the monumental stairs at the front

*MB - grant the nosings, based on historic nature*

*CS - second – carries*

DM - monumental stairs at the lobby, AAB41

- historic handrails at monumental stairs, noncompliant heights, shapes

- wall mounted rails are integrated with the chair rail; 1  $\frac{3}{8}$ " from the wall

- typically ask for variance for interior handrails and provide compliant handrails at the wall side

- due to the integration of the wall side handrails with the chair rails and the closeness to compliance, would like to maintain the existing handrails at these stairs

- all for lobby stairs

*MB - grant the variances for the lobby stairs*

*RG - second – carries*

DM - back stairways will comply, as shown on AAB43  
- balcony area stair handrails  
- Estabrook Hall, AAB44, proposing compliant handrails at accessible side, but historic at noncompliant side

*MB - grant the variances as proposed for stair handrails*

*MT - second – carries*

DM - elevator installed in 2000, but still six areas that are not accessible, (Bird Room, Civil Room, Estabrook Stage, Battin Hall Stage, Green Room, and Balcony Central Cross Aisle), proposing vertical lifts for access to 5 of the 6 areas in question

- proposing no access to Civil Room, since no general public use, but could be used
- nothing special about the Civil Room, currently least desirable since not used as much
- 360 sq. ft.

*CS - grant the variance on the inaccessible Civil Room, on the condition that there is availability at other room made available*

*RG - second – carries*

DM - wheelchair lifts, proposing one for the Bird Room, up 6 ft  
- one four-stop, 14 ft vertical rise vertical wheelchair lift, lowest point will be behind Estabrook Recital Stage up to main stage  
- need two variances for 14 feet of travel distance and the 4 stops from the elevator board

*MB - grant the use of the lifts*

*MT- second – carries*

*MB - write to the elevator board in support of the use of the 14 foot 4stop lift*

*CS - second – carries*

DM - public toilet rooms, unisex bathroom in the green room, that does not meet the 72x90 minimum dimensions

- it will be 60x82, meets all of the clearance requirements, but not the minimal dimensions
- door swings out

*MT - grant as proposed*

*MB - second – carries*

DM - existing first floor unisex toilet room, installed in 1985  
- everything is slightly off  
- no complaints regarding the bathroom  
- clear floor space, toilet room dimensions are adequate, but pull side clearance at door does not comply  
- door will be re-hinged to provide adequate clearance  
- grab bars do not comply

- utilities in the wall
- sink, a portion is obscured by the toilet
- sink clearance is 27 ¾
- 42" not between sink and centerline
- only 28" between the sink and centerline of toilet
- can't get the required clearance by moving the sink

MB - that dimension between the sink and toilet doesn't work

DM - if move the sink then can't change swing of the door  
 - have to do auto-opener, not enough space to access the door  
 - if we can overlap the sink knee clearance

*MB - continue the first floor single-user bathroom redesign to show the 48" clear between sink and toilet; submit by 9/6/13*

*MT - second – carries*

DM - drinking fountains, 3 existing drinking fountains  
 - inoperable stone, accessible next to it  
 - second floor, nonworking stone drinking fountain  
 - would like to restore the stone drinking fountains  
 - adding accessible drinking fountain by Servery  
 - seeking variance for the lack of inaccessible stone drinking fountain by the Civil Room

*MB - grant as proposed*

*RG - second – carries*

MB - drinking fountain as protruding object

DM - will be replaced with new accessible drinking fountain

#### 40) Advisory Opinion: Epoch housing

TH - 8 unit apartment building  
 - compliance with modular building  
 - new construction of townhouses on the bottom and flats on the top

*MB - currently the AAB/521 CMR does not enforce jurisdiction over this design, it is our plan that in the future we will*

*CS - second - carries*

- End of Meeting -